

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF NEW YORK

OFFICE OF MENTAL RETARDATION AND
DEVELOPMENTAL DISABILITIES, on behalf
of Nicole A. Neilson,

Plaintiff,

-against-

6:04-CV-0387
(LEK/DEP)

MICHAEL J. ASTRUE, Commissioner of
Social Security

Defendant.

DECISION AND ORDER

The Court has received a mandate from the Court of Appeals for the Second Circuit in the above captioned matter. Dkt. No. 23. Therein, the Second Circuit reviewed the Court's September 28, 2006 Order (Dkt. No. 18) that adopted the Report Recommendation of Magistrate Judge David E. Peebles in its entirety (Dkt. No. 14). By adopting the Report-Recommendation, this Court granted Defendant's Motion for judgment on the pleadings, affirmed the Commissioner's determination, and dismissed Plaintiff's complaint in its entirety. By the Mandate, issued October 16, 2008, the Second Circuit vacated the Judgment of this Court and ordered it to remand the matter to the Agency.

Accordingly, it is hereby

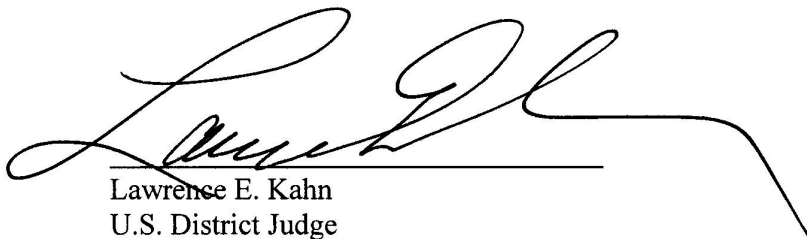
ORDERED, that the matter is **REMANDED** to the Agency to readjudicate the claim in conformity with the revised Agency instructions set forth in Regional Transmittal No. 418 and

POMS SI NY01120.203; and it is further

ORDERED, that the Clerk serve a copy of this Order on all parties.

IT IS SO ORDERED.

DATED: October 21, 2008
 Albany, New York



Lawrence E. Kahn
U.S. District Judge